IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI SOUTHERN DIVISION

NEW PRIME, INC., d/b/a PRIME, INC.,))
Plaintiff,)
VS.) Case No. 05-3547-CV-S-ODS
1050758 ONTARIO, INC., d/b/a S.M. FREIGHT,))
Defendant.)

ORDER AND OPINION DENYING DEFENDANT'S MOTION TO DISMISS

Pending is Defendant's Motion to Dismiss for Lack of Jurisdiction (Doc. # 5), which contends Plaintiff's request for declaratory relief is not ripe for adjudication because Plaintiff has not yet paid the debt which Defendant is allegedly obligated to indemnify. In response, Plaintiff declared that it had paid the debt in question and filed an Amended Complaint specifying this fact and raising an additional claim for breach of contract.

In light of the changed circumstances and the allegations in the Amended Complaint, the Motion to Dismiss is denied.

IT IS SO ORDERED.

/s/ Ortrie D. Smith
ORTRIE D. SMITH, JUDGE
UNITED STATES DISTRICT COURT